

## **APPENDIX A**

### **City of Scottsdale Ordinance 455 Western Theme Park**

#### **Section 5.2804 Uses Allowed in Western Theme Park Districts**

#### **Section 5.2808 Noise in Western Theme Park Districts**

**Sec. 5.2804. Use regulations.**

The uses allowed in the WP district are generally those theme park recreational/commercial uses which are thematic, together with open space and landscaped areas so that buildings, structures, or premises evoke a sense of place, appearance, and atmosphere of the 19th Century American West.

A. *Permitted uses.* Buildings, structures, or premises shall be used, and buildings and structures shall hereafter be erected, altered, or enlarged only for the following uses:

1. Retail Sales.

- a. Craft specialty retail shops conducted in conjunction with jewelry, leather goods, silk screening, sculpturing and wood carving, antiques, gifts, clothing, photography, candle making, flower making, belt making, belt buckle making, ceramics, and pottery.
- b. Food and beverage facilities; indoor restaurants, fast food facilities including ice cream making, candy making, and bakeries.
- c. Public auctions.

2. Services.

- a. Mini-arcades, shooting galleries, gold panning.
- b. Rodeos, equine contests and expositions, equine training facilities.
- c. Horse rides, burro rides, hay rides, stagecoach rides, railroad train rides.
- d. Live entertainment, patron dancing, performing arts, and western shows, such as mock gunfights, and similar activities.
- e. Outdoor shows and exhibits.
- f. Restored or replica structures reminiscent of the historical American West.
- g. Livestock pens and stables.
- h. Recreational vehicle sites for temporary lodging. Lodging for a period not exceeding thirty (30) days shall be considered temporary.
- i. Resort, including golf course, tennis courts or both.
- j. Museums, including wax museums.
- k. Wedding chapel.
- l. Accessory office, postal service, and banking service.
- m. Outdoor barbeque and cookout areas, which may include activities permitted in (c), (d), and (e) above as indicated on the approved development plan.

- n. Merry-go-round.
- o. Dwelling units for employees.
- p. Equine racing, excluding pari-mutuel wagering.
- q. Fireworks, not later than 10:00 p.m.
- r. Indoor shows and exhibits.
- s. Television and motion picture filming and production.
- t. Special events of limited duration which are consistent with the nature and intent of the western theme park district excluding racing and other competitive events involving the operation of motorized vehicles.
- u. Wireless communications facilities; Types 1, 2, and 3, subject to the requirements of Sections 1.906, 3.100 and 7.200.

B. *Use permitted by a conditional use permit.*

- 1. Wireless communications facilities; Type 4, subject to requirements of sections 1.400, 3.100 and 7.200.

(Ord. No. 2430, § 1, 1-21-92; Ord. No. 3048, § 2, 10-7-97; Ord. No. 3103, § 1, 1-6-98; Ord. No. 3493, § 1, 3-4-03)

**Sec. 5.2808. Noise.****1. Intrusive noise limits.**

- a. **Intrusive Noise Limits.** Intrusive noise from park activity shall not create a noise level in excess of the ambient noise level or the exterior noise level standards, whichever is greater.
- b. **Exterior Noise Level Standards.** In the event the ambient noise level within properties in proximity to the park is less than the following exterior noise level standards, the following exterior noise level standards shall apply as the intrusive noise level limit:

TABLE INSET:

Zone	Exterior Noise Level Standards	
	11 p.m. to 7 a.m.	7 a.m. to 11 p.m.
Residential	45dB(A)	55dB(A)
Nonresidential	50	55

- c. **Noise Level Duration Categories.** In consideration of these exterior noise standards, the theme park owner shall not allow the creation of any noise when the foregoing causes the noise level measured on any commercial or residential property in the general vicinity of the park, to exceed:

- (1) The exterior noise level standard for a cumulative period of more than thirty (30) minutes in any hours, or
- (2) The exterior noise level standard plus five (5) dB(A) for a cumulative period of more than fifteen (15) minutes in any hour, or
- (3) The exterior noise level standard plus ten (10) dB(A) for a cumulative period of more than five (5) minutes in any hour, or
- (4) The exterior noise level standard plus fifteen (15) dB(A) for a cumulative period of more than one (1) minute in any hour, or
- (5) The exterior noise level standard plus twenty (20) dB(A) for any period of time within an hour.

- d. **Ambient Noise Level Limit.** In the event that the ambient noise level on the adjacent commercial or residential properties exceeds any of the first four (4) noise level categories above, the intrusive noise level limit for the cumulative period applicable to the category shall be increased to reflect the ambient noise level. In the event that the ambient noise level exceeds the fifth noise limit category, the maximum intrusive noise level limit shall be increased to reflect the maximum ambient noise level.

- e. **Zone-to-Zone Intrusive Noise Level Limit.** In the event that the intrusive noise propagates from the theme park across commercial zones into residential zones, the noise level standard in the residential zone shall apply as the intrusive noise level limit for the residential properties affected.

**2. Compliance requirements.**

a. Declaration of Negligible Park Activity Noise Level. If a park activity is to be located within a structure or enclosure, or if, in the opinion of the architect, an activity is, by established precedent, known to produce a negligible noise level, such activity may be declared to produce negligible intrusive noise. For this category of activity, noise level estimates at the property line are not required. If, in the opinion of the Development Review Board, such a declaration is not considered appropriate for an activity so declared, an acoustical analysis report shall be required.

b. Identification of Noise Producing Activity. The design drawings shall identify each item of activity not placed in the negligible noise level category, its location relative to property lines, and the estimate noise level at the property line that will be generated by the activity when operated during the course of its intended use.

c. Acoustical Analysis Report. An acoustical analysis report, prepared under the supervision of a person experienced in the field of acoustical engineering and signed by the architect, shall be submitted with the application for a building permit. Such report shall be required for all activities declared by the architect or engineer or the Development Review Board to generate noise levels which may exceed the limits specified in section 5.2808.1. The report shall indicate the level of noise to be produced by the activity and the method by which the noise is reduced to comply with the limits established in section 5.2808.1. Such methods may include, but shall not be limited to:

- (1) The use of noise barriers,
- (2) enclosures or partial enclosures,
- (3) structures including buildings,
- (4) mufflers or silencers, and/or
- (5) placement of the activity at a location where the ambient noise level at the property line is equal to or higher than that to be produced by noise from the activity.

d. Noise Control Plan. A significant number of the activities and related noise control measures within the theme park require administrative controls. These include such controls as the hours of operation, selection of the location for noise producing events (cookouts, dancing, outdoor show, etc.), and the placement and adjustment of sound amplification equipment. The theme park owner shall provide the Development Review Board with a noise control plan which indicates the methods by which the intrusive noise standards of section 5.2808.1 shall be met. This plan shall include the time-of-day, day-of-week, and seasonal variation for the operation of each of the activities (cookouts, dances, shows, exhibits, etc.) associated with the master plan and the specific plans for the theme park. In addition, the plan shall identify approved locations for the placement of sound amplification equipment, and it shall indicate the methods by which the park management will supervise and/or control the level of noise produced by such equipment as needed for compliance with the intrusive noise level limits of section 5.2808.1. Control methods shall include, but not be limited to:

- (1) Size and performance limitations on sound amplification equipment.
- (2) Band shells and/or noise barriers.
- (3) Appropriately designed baffles and/or horns.
- (4) Direct supervision of events and the control of equipment.

e. **Field Testing.** Only when inspection indicates that the installation and/or construction of the activity area is not in accordance with the approved design, or if the operation of the park activity is not in accordance with the approved noise control plan, field testing may be required. If such is the case, the Development Review Board may require the owner or building to perform a field test and provide a test report. The test shall include measurements at representative locations along the property line or at approximate locations in proximity to the property line if obstructions exist. The height of the sound level meter shall be five (5) feet from the grade unless a more appropriate height is declared by the Development Review Board to be representative of the measurement of the intruding noise. Measurements shall be obtained at locations at least ten (10) feet from existing structures and/or walls.

f. **Formal Complaint.** When a written complaint has been filed with the Development Review Board regarding noncompliance with the intrusive noise limits provided in section 5.2808.1, a field test to resolve the complaint is required. The city shall retain the services of a person experienced in the field of acoustical engineering to perform the field measurements needed.

3. ***Declaration of noncompliance.*** The Development Review Board shall declare a condition of noncompliance when park activity causes the noise level, when measured on any property in the general vicinity of the theme park, to exceed the intrusive noise level limits. Upon submitting such a declaration to the owner of the park, and after providing a reasonable period of time to comply, operation of the offending activity may be suspended and alterations by the owner may be required to create a condition of compliance. The Development Review Board may require another test prior to declaring the item or items of equipment in compliance with the standard. In the event the tests show a condition of noncompliance with the intrusive noise level limits, the activity shall again be suspended.

4. ***Exemptions.***

a. **Construction.** Noise sources associated with construction, repair, remodeling, or grading within the theme park are exempted from the provisions of this ordinance, provided the construction activities take place between the hours of sunrise to sunset on weekdays, including Saturday, or at any time on Sundays, or a federal holiday.

b. **Emergency Repairs.** Noise sources associated with the emergency repair of power lines, water supplies, ventilation equipment, fences, guard rails, etc., are exempted from the provisions of this ordinance.

c. **Fireworks Display.** Fireworks displays as limited in duration, hour-of-day and day-of-year by the City of Scottsdale, are exempted from the provisions of this ordinance.

d. **Nonconformity.** Noise producing structures, facilities, or activities legally established prior to the effective date of section 5.2808 which do not conform to the provisions of section 5.2808 shall be considered to be legally nonconforming. Such structures, facilities, or activities may continue in their nonconforming state and may make reasonable repairs and alterations.

Structural repairs, addition, enlargements, changes of occupancy may be made subject to complying with the provisions of section 5.2808 and all other provisions of this ordinance.

5. ***Definitions.***

a. **Ambient Noise Level.** Ambient noise level shall mean the all-encompassing noise associated with sources near and far within a given environment, usually being a composite of sounds from many sources. The ambient noise level shall be



measured at the location and approximate time at which a comparison with the park activity is to be made and shall exclude the noise produced by the activities of the western theme park.

b. Architect. An architect registered in the State of Arizona, who, by reason of his training and experience in the science and technology of acoustics or by reason of the advice obtained from an individual qualified in acoustics, is considered qualified to pass judgment on acoustical design, materials, and methods of construction for the attenuation of noise and the control of noise related activity. The qualifications of the architect and/or his engineer advisor relative to acoustical design, must be submitted to and found to be acceptable by the Development Review Board.

c. Cumulative Period. Cumulative period shall mean an additive period of time composed of individual time segments which may be continuous or interrupted.

d. Decibel. Decibel (dB) shall mean a unit or level which denotes the ratio between two (2) quantities which are proportional to power; the number of decibels corresponding to the ratio of two (2) amounts of power is ten (10) times the logarithm to the base ten (10) of this ratio.

e. Emergency Work. Emergency work shall mean any machinery, vehicle, or work used, employed, or performed in an effort to protect, provide, or restore safe conditions within the park for the patrons, or work by private or public utilities when restoring utility service.

f. Formal Complaint. A written complaint submitted to the Development Review Board alleging noncompliance with the intrusive noise limits of this ordinance.

g. Intrusive Noise. Noise produced by park activity which propagates across the theme park property lines into residential or commercial zoning.

h. Noise Level. Noise level shall mean the a-weighted sound pressure level in decibels obtained by using a sound level meter at slow response with a referenced pressure of @ micronewtons per square meter.

i. Park Activity. Park activity shall mean all noise-producing activity involving fans, air conditioning, refrigeration units, pumps, compressors, motors, etc., and all activities associated with live or recorded music, and/or voice communications, either amplified or unamplified and all vehicle related noise including that generated by trucks, buses, rail vehicles (trains), motorcycles, stagecoaches, hay wagons, etc., and all people-related noise-producing activity such as singing, dancing, clapping, and/or crowd response.

j. Sound Level Meter. Sound level meter shall mean an instrument meeting American National Standard Institute's standard (ANSI) S1.4-1971 for type 1 or type 2 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

k. Sound Pressure Level. Sound pressure level in decibels of a sound shall mean twenty (20) times the logarithm to the base ten (10) of the ratio of sound to the reference pressure. The reference pressure shall be explicitly stated.

(Ord. No. 3225, § 1, 5-4-99)